

AMENDED IN ASSEMBLY JUNE 6, 2011

AMENDED IN SENATE MAY 3, 2011

AMENDED IN SENATE APRIL 14, 2011

SENATE BILL

No. 332

Introduced by Senator Padilla

February 15, 2011

An act to add Article 1.5 (commencing with Section 104497) to Chapter 1 of Part 3 of Division 103 of the Health and Safety Code, relating to smoking.

LEGISLATIVE COUNSEL'S DIGEST

SB 332, as amended, Padilla. Smoking: rental dwellings.

Existing law regulates the terms and conditions of residential tenancies. Existing law authorizes the creation of antitobacco use programs for school-age populations and prohibits any person from smoking a cigarette, cigar, or other tobacco-related product, or from disposing of cigarette butts, cigar butts, or any other tobacco-related waste, within a playground.

This bill would authorize a landlord of a residential dwelling unit to prohibit the smoking of tobacco products on the property, in a dwelling unit, in another interior or exterior area, or on the premises on which the dwelling unit is located. The bill would make certain requirements on notices and leases executed on and after, and on and before, January 1, 2012, in this regard. The bill would require that a landlord who prohibits smoking pursuant to this authority be subject to *federal*, state, and local ~~notice~~ requirements governing changes to the terms of a *lease* or rental agreement for tenants, as specified. The bill would provide

that its provisions do not preempt local ordinances in effect on or before January 1, 2012.

Vote: majority. Appropriation: no. Fiscal committee: no.
State-mandated local program: no.

The people of the State of California do enact as follows:

1 SECTION 1. The Legislature finds and declares all of the
2 following:

3 (a) More than 443,000 people die in the United States from
4 tobacco-related diseases every year, making tobacco-related
5 diseases the nation's leading cause of preventable death.

6 (b) The State Department of Public Health has estimated that
7 86 percent of adult Californians are nonsmokers. Secondhand
8 smoke is responsible for an estimated 49,400 deaths among
9 nonsmokers each year in the United States, which includes 3,400
10 lung cancer deaths and 46,000 deaths due to heart disease.
11 Secondhand smoke also has been proven to cause cancer in
12 humans.

13 (c) Secondhand smoke exposure adversely affects fetal growth
14 with elevated risk of low birth weight and increased risk of sudden
15 infant death syndrome (SIDS) in infants of mothers who smoke.

16 (d) Secondhand smoke exposure causes as many as 300,000
17 children in the United States under 18 months of age to suffer
18 lower respiratory tract infections, such as pneumonia and
19 bronchitis; exacerbates childhood asthma; and increases the risk
20 of acute, chronic, middle-ear infections in children.

21 (e) The United States Environmental Protection Agency has
22 classified secondhand smoke as a group A carcinogen, the most
23 dangerous class of carcinogen.

24 (f) The United States Surgeon General has concluded that there
25 is no risk-free level of exposure to secondhand smoke.

26 (g) The State Air Resources Board has put secondhand smoke
27 in the same category as the most toxic automotive and industrial
28 air pollutants by categorizing it as a toxic air contaminant for which
29 there is no safe level of exposure.

30 (h) The California Environmental Protection Agency has
31 included secondhand smoke on the Proposition 65 list of chemicals
32 known to the State of California to cause cancer, birth defects, and
33 other reproductive harm.

(i) Thirty-one percent of California's housing is multiunit residences, such as apartments and condominiums.

SEC. 2. Article 1.5 (commencing with Section 104497) is added to Chapter 1 of Part 3 of Division 103 of the Health and Safety Code, to read:

Article 1.5. Smoking of Tobacco Products in Residential Rental Units

~~104497. (a) Notwithstanding any other provision of law, a~~
104497. (a) A landlord of a residential dwelling unit, as defined in Section 1940 of the Civil Code, or his or her agent, may prohibit the smoking of a cigarette, as defined in Section 104556, or other tobacco product on the property or in any building or portion of the building, including any dwelling unit, other interior or exterior area, or the premises on which it is located, in accordance with this article. *A limitation or prohibition on the use of any tobacco product shall not affect any other term or condition of the tenancy.*

(b) (1) Every lease or rental agreement entered into on or after January 1, 2012, for a residential dwelling unit on property on any portion of which the landlord has prohibited the smoking of cigarettes and other tobacco products pursuant to this article shall include a provision that specifies the areas on the property where smoking is prohibited, *if the lessor has not previously occupied the dwelling unit.*

(2) For a lease or rental agreement entered into before January 1, 2012, a prohibition against the smoking of cigarettes and other tobacco products in any portion of the property in which smoking was previously permitted shall constitute a change of the terms of tenancy, requiring adequate notice in writing, to be provided in the manner prescribed in ~~Section 1162 of the Code of Civil Procedure~~ 827 of the Civil Code.

(c) A landlord who exercises the authority provided in subdivision (a) to prohibit smoking shall be subject to *federal, state, and local* notice requirements governing changes to the terms of a *lease or* rental agreement for tenants with *leases or* rental agreements that are in existence at the time that the policy prohibiting smoking is adopted.

(d) This section shall not be construed to preempt any local ordinance in effect on or before January 1, 2012, *nor shall it be*

- 1 *construed to require statutory authority to establish or enforce*
- 2 *any other lawful term or condition of the tenancy.*

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